

Senate Bill No. 1038

CHAPTER 18

An act to amend Section 30163 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 5, 2000. Filed with
Secretary of State May 5, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, Burton. Taxation: cigarette tax.

The Cigarette and Tobacco Products Tax Law requires that an appropriate stamp be affixed to, or that an appropriate meter impression be made upon, each package of cigarettes prior to distribution, and prohibits any stamping or metering of packages of cigarettes unless those packages comply with federal labeling requirements for cigarettes to be sold within the United States. Existing law requires the State Board of Equalization to revoke the license issued to a distributor that is determined to be in violation of these stamping or metering requirements. Existing law provides for the forfeiture of the cigarettes in packages that are in violation, and provides that a violation of those requirements constitutes unfair competition.

This bill would additionally prohibit any stamp or meter impression from being affixed to, or made upon, packages of cigarettes if the package bears a cigarette brand name which is a registered U.S. trademark of a participating manufacturer, as defined, and the package was imported by anyone other than the participating manufacturer of that cigarette brand. By creating a new crime in the form of a misdemeanor for a violation of these requirements, this bill would establish a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 30163 of the Revenue and Taxation Code is amended to read:

30163. (a) Except as otherwise provided in this section, an appropriate stamp shall be affixed to, or an appropriate meter impression shall be made on each package of cigarettes prior to the distribution of the cigarettes.

(b) No stamp or meter impression may be affixed to, or made upon, any package of cigarettes if any one of the following occurs:

(1) The package does not comply with all requirements of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec. 1331 and following) for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States.

(2) The package is labeled “For Export Only,” “U.S. Tax Exempt,” “For Use Outside U.S.,” or similar wording indicating that the manufacturer did not intend that the product be sold in the United States.

(3) The package, or a package containing individually stamped packages, has been altered by adding or deleting the wording, labels, or warnings described in paragraph (1) or (2).

(4) The package was imported into the United States after January 1, 2000, in violation of Section 5754 of Title 26 of the United States Code.

(5) (A) The package bears a cigarette brand name which is a registered U.S. trademark of a participating manufacturer and the package was imported by anyone other than the participating manufacturer of that cigarette brand.

(B) For purposes of this paragraph, “participating manufacturer” has the same meaning as defined in paragraph (1) of subdivision (a) of Section 104557 of the Health and Safety Code and in Section II(jj) of the Master Settlement Agreement described in Article 3 (commencing with Section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code.

(c) Pursuant to its authority under Section 30148, the board shall revoke the license issued to a distributor that is determined to be in violation of this section.

(d) A violation of subdivision (b) shall constitute unfair competition under Section 17200 of the Business and Professions Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government

Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to encourage affiliation with and investment in California businesses and to clarify the status of imported cigarettes under the Cigarette and Tobacco Products Tax Law, it is necessary that this act take effect immediately.

